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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,489	09/08/2003	Han Chang Hsieh	9188.227US01	2029
23552	7590	12/06/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,489

Applicant(s)HSIEH ET AL. **Examiner**

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-10 and 12-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 8-10 and 12-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 8-10,12,13** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3735738 (herein 738) in view of US 5435270 (herein 270) and US 5427060 (herein 060).

For claim 8, 738 discloses a wall-mountable aquarium comprising a slim tank 2, the tank including a transparent front wall (in conjunction with 4,32,26,94), a rear wall 86, opposite left and right side walls 88,90 and a bottom wall 92, with the side and bottom walls being narrower than the front and rear walls (note figs. 1,2,5,7), a fixed enclosure (see fig. 5) provided externally on at least one of the left and right side walls and bottom wall for containing part of accessory for the aquarium, and a frame 4 attached on the front wall, the frame concealing the enclosure from direct sight from the front and including a see-through portion 26 therein to reveal only the living habitat inside the tank through the front wall. 738 has accessories such as heater, light, etc. hidden behind the aquarium. However, 738 is silent about wherein the accessory includes a filtering trough located at the top of the tank, a grate lying on the bottom wall, a water pump, and a pipe being concealed by a background setting of the accessory, the background setting being a sheet extending along a width of the rear wall and in

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front of the pipe, the pipe extending from the pump to reach above the trough, whereby water is deliverable by the pump from the bottom of the tank via the pipe into the trough atop for filtering and then flowing back down into the tank, the trough and the grate being concealed by the frame from direct sight from the front.

060 teaches an aquarium 51,52 in fig. 5, with a filtering trough 57,61 located at the top of the tank, a water pump 65,56, and a pipe 63,66,68,67,69 extending from the pump to reach above the trough, whereby water is deliverable by the pump from the bottom of the tank via the pipe into the trough atop for filtering and then flowing back down into the tank, the trough and the grate being concealed by the frame from direct sight from the front. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a filtering trough, a water pump, a pipe as taught by 060 in the aquarium of 738 in order to clean the aquarium.

270 teaches an aquarium with a grate 22 lying on the bottom wall of the aquarium and a background setting being a sheet within the frame 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a grate as taught by 270 in the aquarium of 738 in order to aerate the aquarium's water (col. 2, lines 37-40 of 270). In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a background setting as taught by 270 in the aquarium of 738 in order to hide the accessories in the aquarium so as to make the aquarium more aesthetically pleasing in appearance. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the background setting of 738 as

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modified by 270 to conceal the pipe or any other accessories in order to make the aquarium more pleasing in appearance. A background setting is notoriously well known in the art of aquarium for hiding or concealing accessories so as to make the aquarium more pleasing in appearance so placing the background setting in the back or front of pipe is nothing new in the art and also depends on the user to hide the accessories.

For claim 9, the combination of 738 as modified by 060 & 270 (as explained in claim 8, thus, will not be repeated herein) teaches the pump being inside the tank (note, the tank is the whole assembly refs. 51 & 52 as indicated above) and adjacent to the grate (of 270's teaching) such that it is also concealed by the frame from direct sight from the front, the pipe extends along a corner of the tank upwardly out of water to reach above the trough. Note, the frame of 738 conceals accessories, thus, will not be seen from the front.

For claim 10, the combination of 738 as modified by 060 & 270 (as explained in claim 8, thus, will not be repeated herein) teaches wherein the trough has a bottom wall having small drain holes (col. 1, lines 30-34 of 060's teaching). In addition, 060 teaches a lateral exit 58,64,60 to allow overflow of water back into the tank. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include lateral exit as further taught by 060 in the aquarium of 738 as modified by 060,270 & 358 in order to allow water to flow back into the tank.

For claims 12 & 13, in addition to the above, 270 further teaches in col. 4, lines 43-47, a background sheet behind the tank covering the rear wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

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include a background sheet as further taught by 270 in the aquarium of 738 as modified by 060 & 270 in order to enhance the appearance of the aquarium. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place the sheet inside the tank of 738 as modified by 060 & 270, depending on the user's preference to do so because by placing in the tank or behind the tank, would still result in enhancing the aquarium. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to extend the sheet close to and covering the left and right side walls, turning smoothly round the corners between the walls of the aquarium of 738 as modified by 060 & 270, depending on the user's preference to cover the majority of the aquarium or not so as to further enhance the appearance.

3. **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over US 738 (as above) in view of 270 (as above). See explanation above, esp. teaching of 738 and 270.

Response to Arguments

4. Applicant's arguments filed 10/5/04 have been fully considered but they are not persuasive.

Applicant argued that Lake (738) does not teach filter trough, grate, pump and background setting being in front of the pipe.

As explained in the above rejection, 060 is relied upon for the filter trough and pump teachings and 270 is relied upon for the grate and background setting teachings. These aquarium accessories are notoriously well known in the art so they are not of

anything new and are usually included in aquariums of all sort. By employing these elements in the aquarium of Lake does not modified Lake in any way because these are elements employed in aquarium to filter out waste and to make the aquarium pleasing in appearance (the background setting). The background setting as taught by 270 can be used to hide or conceal any accessories in the aquarium so if one wishes to put the background setting in front of the pipe it would be obvious to do so to hide the pipe so that the aquarium would look nicer.

Conclusion


5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 703-305-0765. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen
Primary Examiner
Art Unit 3643

stn